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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.								
10/668,543	09/23/2003	Jean-Philippe Wary	704-011490-US(PAR)	2120								
7590 PERMAN & GREEN, LLP 425 Post Road Fairfield, CT 06824		12/13/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">BENGZON, GREG C</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>2144</td><td></td></tr></table>		EXAMINER		BENGZON, GREG C		ART UNIT	PAPER NUMBER	2144	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/668,543

Applicant(s)

WARY, JEAN-PHILIPPE

Examiner

Greg Bengzon

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This application has been examined. Claims 5-23 are pending. Claims 19-23 are submitted as new claims. Claims 1-4 are cancelled.

#### ***Making Final***

Applicant's arguments filed 10/03/2007 have been fully considered but they are not persuasive.

The claim amendments regarding -- '*producing, through a gateway of an access provider, a first isolating identifier of a multimedia user*' -- do not overcome the disclosure by the prior art , as shown below.

The Examiner is thus making this action FINAL based on the claim amendments.

#### ***Priority***

This application claims benefits of priority from Foreign Application 0211803 (FRANCE) filed September 24,2002.

The effective date of the claims described in this application is September 24, 2002.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 5-23 are directed towards a method for creating a data structure. A process consisting solely of mathematical operations, i.e., converting one set of numbers into another set of numbers, does not manipulate appropriate subject matter and thus cannot constitute a statutory process.

Furthermore data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. Mere arrangements or compilations of facts or data, without any functional interrelationship is not a process, machine, manufacture, or composition of matter.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 , 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asokan (US Patent 6959009) in view of what was obvious to a person of ordinary skill in the art.

Asokan disclosed (re. Claim 19) a method for the producing, through a gateway of an access provider, a first isolating identifier of a multimedia user ( Asokan-Column 8 Lines 40-45) that is compatible with the identifiers of a telephony network , said identifier having a first user identifier field, said producing including encrypting said first field by formatting the first isolating identifier in the following format:

the first identifier comprises N identifier digits for designating the user,

the first identifier comprises at least one nature digit for defining the nature of the first identifier, (Asokan-Column 7 Lines 45-50) and

the first identifier comprises M variability digits, wherein: the M variability digits depends on the nature digit,

the first identifier has a maximum size of 15 digits, (Asokan- Column 14 Lines 10-

15, 'MSISDN') one digit being a computer representation for representing/encoding a decimal or hexadecimal digit and comprising 4 bits, and

the first identifier comprises at least one producer digit for designating the producer of the identifier. (Asokan-Column 3 Lines 20, 'NSAPI', Column 7 Lines 5-10, '*network prefix*') )

The Examiner notes that Asokan is directed towards the same issues for which the claimed invention is intended, namely preventing loss of privacy in mobile networks. (Asokan-Column 8 Lines 50-60) In Asokan, MSISDN together with the NSAPI provide a unique identifier for mobile users to identify the mobile user to the gateway for signaling and data transmission. The unique identifier is generated by either at the mobile node or at the gateway node.

Asokan disclosed (re. Claim 5) wherein the identifier digits (Asokan- Column 14 Lines 10-15, 'MSISDN') are the digits 8 to 15, N being equal to 8; (re. Claim 6) wherein the producer digit (Asokan-Column 3 Lines 20, 'NSAPI', Column 7 Lines 5-10, '*network prefix*') is the digit 1; (re. Claim 7) wherein the nature-defining digit (Asokan-Column 3 Lines 20, 'NSAPI', Column 7 Lines 5-10, '*network prefix*') is the digit numbered 2.

The Examiner notes that Claims 5 thru 7 are describing an arrangement of data

for the identifiers already discussed in Claim 1. There can be no patentable weight given to the arrangement of data being claimed, hence only the functionality produced by or derived from the said data structure is being examined. Since Asokan disclosed the producer digit (Asokan-Column 3 Lines 20, 'NSAPI', Column 7 Lines 5-10, 'network prefix') and the nature-defining digit (Asokan-Column 7 Lines 45-50), then Asokan is deemed to disclose Claims 5-7 accordingly.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10,20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asokan (US Patent 6959009) in view of what was obvious to a person of ordinary skill in the art.

The Examiner notes that Claims 8-10,20-21 are describing an arrangement of data for the identifiers already discussed in Claim 19. There can be no patentable weight given to the arrangement of data being claimed, hence only the functionality produced or derived the said data structure is being examined.

While Asokan substantially disclosed the invention, Asokan did not disclose (re. Claim 8) wherein the M digits enable the encoding of a date.

The combination of Asokan and what was obvious in the network art disclosed (re. Claim 8) enable the encoding of a date.

At the time of the invention it would have been well-known in the network art to encode a date within a data structure for identifying a subscriber. The motivation for said combination would have been to enable a temporary or dynamically generated identifier to be identified as obsolete.

The combination of Asokan and what was obvious in the network art disclosed (re. Claim 9) wherein the M digits enabling the encoding of a date in the month/day/time (mmddhh) format.

At the time of the invention it would have been well-known in the network art to encode a date following standard date formats such as month/day/time (mmddhh)



format . The motivation for said combination would have been to enable a temporary or dynamically generated identifier to be identified as obsolete.

The combination of Asokan and what was obvious in the network art disclosed (re. Claim 10) wherein a value of 0 or 1 for the digit numbered 2 corresponds to a temporary identifier. (Asokan-Column 3 Lines 50-55)

The Examiner notes that Claim 10 is describing a mathematical value for the identifiers already discussed in Claim 19. There can be no patentable weight given to the mathematical value being claimed, hence only the functionality produced by the said data structure is being examined. Since Asokan disclosed a temporary identifier (Asokan-Column 3 Lines 50-55) then Asokan disclosed Claim 10 accordingly.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14,17-18,22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asokan (US Patent 6959009) in view of what was obvious to a person of ordinary skill in the art further in view of Brainard (US Patent 6985583).

While Asokan substantially disclosed the invention Asokan did not disclose (re. Claim 11) wherein the M digits represent the period of time that has elapsed since the beginning of the year in progress, expressed in  $1/900,000$ th fractions.

The Examiner notes that Claims 11,22-23 are describing an arrangement of data for the identifiers already discussed in Claim 19. There can be no patentable weight given to the arrangement of data being claimed, hence only the functionality produced or derived the said data structure is being examined.

Brainard disclosed (re. Claim 11) representing the period of time that has elapsed since the beginning of the year in progress, expressed in  $1/900,000$ th fractions. (Brainard-Column 8 Lines 20-25)

At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brainard into Asokan. The motivation for said combination would have been to create an identifier containing time-related information that cannot be determined from the resulting identifier. (Brainard-Column 2 Lines 15-20)

Asokan-Brainard disclosed (re. Claim 12,14) wherein a value of 0, 1, 2, 3, 4, 5, 6, 7, or 8 for the digit numbered 2 corresponds to a temporary identifier. (Asokan-Column 3 Lines 50-55)

The Examiner notes that Claim 12 is describing a mathematical value for the identifiers already discussed in Claim 11. There can be no patentable weight given to the mathematical value being claimed, hence only the functionality produced by the said data structure is being examined. Since Asokan disclosed a temporary identifier (Asokan-Column 3 Lines 50-55) then Asokan disclosed Claim 12 accordingly.

Asokan-Brainard disclosed (re. Claim 13) wherein the M digits represent the period of time that has elapsed since the beginning of the year in progress, expressed in 1/800, 000th fractions. (Brainard-Column 2 Lines 15-20)

Asokan-Brainard disclosed (re. Claim 17) wherein the identifier digits and the variability digits are encrypted. (Brainard- Column 2 Lines 20-30)

Asokan-Brainard disclosed (re. Claim 18) wherein the encryption algorithm is symmetrical and produces digits. (Brainard- Column 2 Lines 20-30)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asokan (US Patent 6959009) in view of what was obvious to a person of ordinary skill in the art further in view of Ginzboorg (US Patent 6240091).

The Examiner notes that Claim 15 is describing an arrangement of data for the identifiers already discussed in Claim 19. There can be no patentable weight given to the arrangement of data being claimed, hence only the functionality produced or derived the said data structure is being examined.

While Asokan substantially disclosed the invention Asokan did not disclose (re. Claim 15) wherein the M variability digits enable the identification of a content provider.

Ginzboorg disclosed (re. Claim 15) enabling the identification of a content provider. (Ginzboorg- Column 8 Lines 15-30)

At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Ginzboorg into Asokan. The motivation for said combination would have been to differentiate between the private usage and business usage of the mobile subscriber (Ginzboorg-Column 3 Lines 35-40).

Asokan-Ginzboorg disclosed (re. Claim 16) identifying of a contract between the user and the service provider. (Ginzboorg- Column 8 Lines 15-30)

### ***Response to Arguments***

Applicant's arguments filed 10/03/2007 have been fully considered but they are not persuasive.

The Examiner maintains the USC 101 rejection for the following reasons.

The Examiner notes that the claims are directed towards creating a data structure which is never used by any computer and thus does not cause functional changes in any computer. While the preamble recites '*producing through a gateway*' said gateway is not cited the body of the claim and is not given any patentable weight. Even if the gateway were to be cited in the body of the claim as an embodiment of said data structure, the claims must indicate how the data structure affects/alters the operation of the gateway or other entities in the network.

Furthermore the Examiner notes that where the said data structures may be produced using manual procedures, the claims are interpreted as automating a manual procedure for an arrangement of numbers, and hence not given any patentable weight.

The Applicant presents the following argument(s) [*in italics*]:

*Contrary to what the claimed invention teaches... the unique purpose of Asokan is to propose a method for a mobile phone to acquire an IP network address in a communications network according to Ipv4 or Ipv6....According to Asokan, an IP static or dynamic IP address is provided, but this one is fully known and this is exactly what the claimed invention wishes to avoid.*

The Examiner respectfully disagrees with the Applicant. Asokan protects the privacy of the user by combining said IP address with a PDP context and PDP address. (Asokan-Column 8 Lines 50-65, Column 9 Lines 10-35) Thus there is no distinction between Asokan and the claimed invention with regards to the intent to protect the mobile user's privacy.

### **Conclusion**

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing

responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

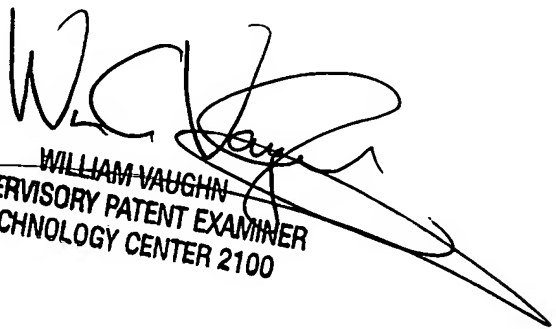
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gcb

  
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